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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

|                           |   |
|---------------------------|---|
| Proceeding                | 92054139  |
| Party                     | Defendant<br>Stiletto Brands, LLC   |
| Correspondence<br>Address | JASON MUELLER<br>ADAMS AND REESE LLP<br>424 CHURCH ST, STE 2800<br>NASHVILLE, TN 37219<br>UNITED STATES<br>jason.mueller@arlaw.com, haverly.macarthur@arlaw.com |
| Submission                | Request to Withdraw as Attorney   |
| Filer's Name              | Jason P. Mueller  |
| Filer's e-mail            | jason.mueller@arlaw.com   |
| Signature                 | /Jason P. Mueller/  |
| Date                      | 06/01/2012  |
| Attachments               | Motion to Withdraw as Counsel of Record Phenix Brands v. Steletto Brands.pdf<br>( 9 pages )(366707 bytes )  |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 3712427  
Issued on November 17, 2009

PHENIX BRANDS, LLC

Petitioner,

v.

STILETTO BRANDS, LLC,

Respondent.

Cancellation No. 92054139

**MOTION TO WITHDRAW AS COUNSEL OF RECORD**

Pursuant to 37 CFR §10.40, come Jason P. Mueller, Esq., Haverly MacArthur, Esq., and the law firm of Adams and Reese LLP (“Withdrawing Attorneys”), attorneys of record for defendant, Stiletto Brands, L.L.C., who respectfully request that they be allowed to withdraw as counsel of record for Stiletto Brands, L.L.C. in the above-captioned proceeding.

Withdrawing Attorneys wish to terminate representation in this matter in accordance with 37 CFR 10.40 (c)(1)(vi).

Additionally, Withdrawing Attorneys have notified Stiletto Brands, L.L.C. in writing of the withdrawal and of the status of the case. *See* attached Exhibit “A.” Withdrawing Attorneys have delivered and mailed this written notice to Stiletto Brands, L.L.C. The present street address and mailing address of Stiletto Brands, L.L.C. is 1836 Beach Boulevard Biloxi, MS 39531.

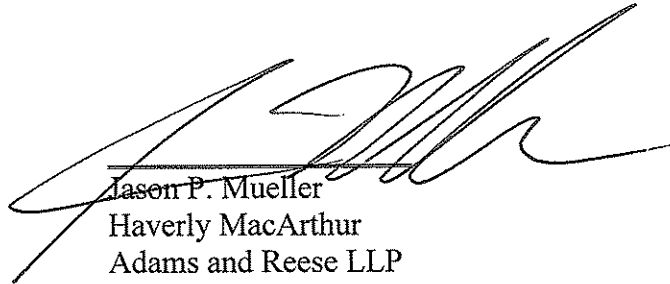
WHEREFORE, Jason P. Mueller, Esq., Haverly MacArthur, Esq., and the law firm of Adams and Reese LLP pray that the Trademark Trial and Appeal Board grant their Motion to

Withdraw as Counsel of Record, thereby permitting them to withdraw as counsel of record for defendant, Stiletto Brands, L.L.C.

Respectfully submitted:

**ADAMS AND REESE LLP**

Date: 6/11/12

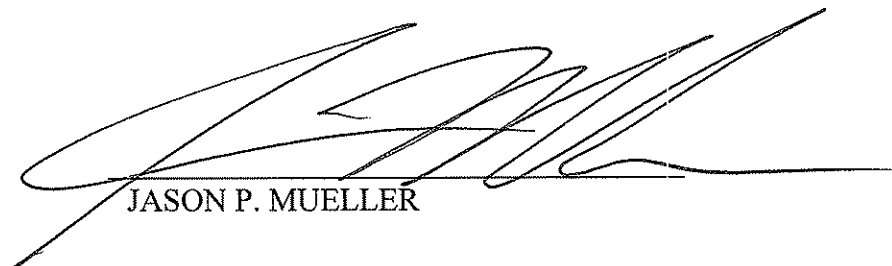


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**CERTIFICATE OF SERVICE**

I DO HEREBY CERTIFY that Jason P. Mueller, Esq., Haverly MacArthur, Esq., and the law firm of Adams and Reese LLP have complied with paragraph (a) of Rule 9.13 of the Uniform Rules for Louisiana District Courts and with Rule 1.16 of the Rules of Professional Conduct, Louisiana State Bar Association, Articles of Incorporation, Art. 16; that a copy of the written communication required by paragraph (a) of Rule 9.13 of the Uniform Rules for Louisiana District Courts is attached to this motion; and that a copy of the Motion to Withdraw as Counsel of Record has been provided to a representative of Stiletto Brands, L.L.C. and to counsel for Phenix Brands, LLC. by United States mail, postage prepaid and properly address, by electronic mail, by facsimile and/or by certified mail, return receipt requested on this 1<sup>st</sup> day of June, 2012. Address for counsel for Phenix Brands is as follows:

Debra Deardourff Faulk  
GrayRobinson, P.A.  
201 North Franklin Street, Suite 2200  
Tampa, Florida 33601



JASON P. MUELLER

## **TITLE II**

### **RULES FOR CIVIL PROCEEDINGS IN DISTRICT COURTS (EXCEPT FOR FAMILY COURTS AND JUVENILE COURTS)**

*Includes Amendments through November 21, 2011  
(Amendments effective January 1, 2012)*

#### **Chapter 9 Procedure**

- Rule 9.0 Daily Order of Business
- Rule 9.1 Matters Scheduled But Not Heard
- Rule 9.2 Matter Heard by Judge to Whom Allotted
- Rule 9.3 Allotment; Signing of Pleadings In Allotted or Non-Allotted Cases
- Rule 9.4 Pleadings To Be Filed with Clerk; Prior or Multiple Filings of Pleadings
- Rule 9.5 Court's Signature; Circulation of Proposed Judgment
- Rule 9.6 Form of the Pleadings
- Rule 9.7 Signing of Pleadings
- Rule 9.8 Exceptions and Motions
- Rule 9.9 Memoranda Supporting or Opposing Exceptions and Motions
- Rule 9.10 Motions for Summary Judgment
- Rule 9.11 Executory Process
- Rule 9.12 Enrollment as Counsel of Record
- Rule 9.13 Withdrawal as Counsel of Record
- Rule 9.14 Fixing for Trial or Hearing; Scheduling Orders; Contact with Jurors
- Rule 9.15 Subpoenas
- Rule 9.16 Agreements and Stipulations
- Rule 9.17 Continuances
- Rule 9.18 Oral Arguments
- Rule 9.19 Defaults
- Rule 9.20 Appeals to District Court

#### **Rule 9.13      Withdrawal as Counsel of Record**

Enrolled attorneys have, apart from their own interests, continuing legal and ethical duties to their clients, all adverse parties, and the court. Accordingly, the following requirements govern any motion to withdraw as counsel of record:

- (a) The withdrawing attorney who does not have written consent from the client shall make a good-faith attempt to notify the client in writing of the withdrawal and of the status of the case on the court's docket. The attorney shall deliver or mail this notice to the client before filing any motion to withdraw.

(b) If the action or proceeding has been assigned to a particular section or division of the court, then the motion to withdraw shall be submitted to the judge presiding over that section or division.

(c) Any motion to withdraw shall include the following information:

(1) The motion shall state current or last-known street address and mailing address of the withdrawing attorney's client. The withdrawing attorney shall also furnish this information to the clerk of court.

(2) If a scheduling order is in effect, a copy of it shall be attached to the motion.

(3) The motion shall state whether any conference, hearing, or trial is scheduled and, if so, its date.

(4) The motion shall include a certificate that the withdrawing attorney has complied with paragraph (a) and with Rule 1.16 of the Rules of Professional Conduct, Louisiana State Bar Association, Articles of Incorporation, Art. 16. A copy of the written communication required by paragraph (a) shall be attached to the motion.

(d) The court may allow an attorney to withdraw by ex parte motion if:

(1) The attorney has been terminated by the client; or

(2) The attorney has secured the written consent of the client and of all parties or their respective counsel; or

(3) No hearing or trial is scheduled; or

(4) The case has been concluded.

(e) If paragraph (d) does not apply, then an attorney may withdraw as counsel of record only after a contradictory hearing and for good cause. All parties and the withdrawing attorney's client shall be served with a copy of the motion and rule to show cause why it should not be granted.

(f) If counsel's withdrawal would delay a scheduled hearing or trial, the court will not allow the withdrawal unless exceptional circumstances exist.

(g) Paragraphs (a) through (f) do not apply to an ex parte motion to substitute counsel signed by both the withdrawing attorney and the enrolling attorney. The following rules govern such a motion:

(1) The court may grant the motion without a hearing. Movers shall furnish the court with a proposed order.

(2) Substitution of counsel will not, by itself, be good cause to alter or delay any scheduled matters or deadlines.

*Adopted April 1, 2002, effective April 1, 2002; amended October 29, 2003, effective January 4, 2004; amended November 20, 2009, effective January 1, 2010.*

**Comment**

Rule 9.13 is not intended to supersede the Rules of Professional Conduct regarding the presentation of false testimony to the court.

# Louisiana Rules of Professional Conduct

*(with amendments through  
September 30, 2011)*



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## **RULE 1.16. DECLINING OR TERMINATING REPRESENTATION**

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

- (1) the representation will result in violation of the rules of professional conduct or other law;
- (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or
- (3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

- (1) withdrawal can be accomplished without material adverse effect on the interests of the client;
- (2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;
- (3) the client has used the lawyer's services to perpetrate a crime or fraud;
- (4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;
- (5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;
- (6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or
- (7) other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance

payment of fee or expense that has not been earned or incurred. Upon written request by the client, the lawyer shall promptly release to the client or the client's new lawyer the entire file relating to the matter. The lawyer may retain a copy of the file but shall not condition release over issues relating to the expense of copying the file or for any other reason. The responsibility for the cost of copying shall be determined in an appropriate proceeding.

**RULE 1.17. [RESERVED]**

**RULE 1.18. DUTIES TO PROSPECTIVE CLIENT**

- (a) A person who discusses with a lawyer the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.
- (b) Even when no client-lawyer relationship ensues, a lawyer who has had discussions with a prospective client shall not use or reveal information learned in the consultation, except as Rule 1.9 would permit with respect to information of a former client.
- (c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).
- (d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:
  - (1) both the affected client and the prospective client have given informed consent, confirmed in writing, or:
  - (2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and
    - (i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and
    - (ii) written notice is promptly given to the prospective client.